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Honorable Mike Weaver
Commissioner of Insurance
State of Alabama
Department of Insurance
135 South Union Street
Montgomery, Alabama 36130-3401

Insurance - Insurance Companies -
Lists - Public Records

There is no statutory mandate for the Department of Insurance to provide computer printout lists of names and addresses of all licensed Alabama insurance agents when a list of those same agents' names is already compiled and printed in a directory on an annual basis for the public.

Dear Mr. Weaver:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

Is there any statutory mandate that the Alabama Department of Insurance maintain and upon request provide computer printout lists of all licensed Alabama insurance agents names and addresses in this state?

LAW, FACTS AND ANALYSIS

Section 27-2-14, Code of Alabama 1975, as amended, states:

". . . The commissioner is responsible for the custody and preservation of all records, documents and files of the department.

"The records of the commissioner and insurance filings in his office shall be open to public inspection, except as otherwise provided by this title."

Section 27-2-16, Code, states:

"The commissioner shall have printed or otherwise published for public distribution: . . .

"(3) a directory, annually, of all insurers and of all resident insurance agents and brokers authorized or licensed by this state; . . .

"The commissioner shall fix at a price at not less than cost of printing and distribution, to be paid by persons requesting copies of the insurance laws, booklets containing questions and answers for examination for licenses and such other publications as he deems proper to sell on behalf of the state rather than distribute free of charge; . . ."

Section 41-13-1, Code, defines "public records" as:

". . . all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of this state . . . in the transactions of public business . . ."

Section 36-12-40, Code, states:

"Every citizen has a right to inspect and take a copy of any public writing of this

state except as otherwise expressly provided by statute."

The Commissioner by law must keep records and publish some of those records for the public. Inasmuch as the Insurance Department already keeps a list of all licensed insurance agents and in fact publishes that list yearly in a directory would be sufficient under the public record statute. In Stone v. Consolidated Publishing Co., 404 So.2d 678, 681 (Ala. 1981) the court held:

" . . . Construing these statutes in pari materia, we hold that the 'public writing' spoken of in Code 1975, Section 36-12-40, is such a record as is reasonably necessary to record the business and activities required to be done or carried on by a public officer so that the status and condition of such business and activities can be known by our citizens. . . . It would be helpful for the legislative department to provide the limitations by statute as some states have done. Absent legislative action, however, the judiciary must apply the rule of reason. . . . Courts must balance the interest of citizens in knowing what their public officers are doing in the discharge of public duties against the interest of the general public in having the business of government carried on efficiently and without undue interference." (Emphasis added.)

CONCLUSION


The Department does in fact publish and distribute, to interested members of the public, a directory with lists of names of all licensed Alabama insurance agents and their city of residence on a yearly basis. The Department also maintains the agents' addresses in their agents' file which is available for public inspection. The distribution of the directory would appear to satisfy the requirements of the law. Therefore there is no duty to produce a computer printout of this information.

I trust this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Very truly yours,

JIMMY EVANS
ATTORNEY GENERAL

BY:



JAMES R. SOLOMON, JR.
CHIEF, OPINIONS DIVISION

JE/EB/bb